

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 1:23-cv-23004-WPD

JANE DOE, a minor, by and through
her mother and next friend, Mother
Doe,

Plaintiff,

vs.

ACADEMIR CHARTER SCHOOLS,
INC.,
SUPERIOR CHARTER SCHOOL
SERVICES, INC.

Defendants.

SUPERIOR'S MOTION FOR LEAVE AMEND ANSWER

Pursuant to Rule 15(a) of the Federal Rules of Civil Procedure, Defendant, Superior Charter School Services, Inc. ("Superior"), through undersigned counsel, moves to amend its Answer to the Plaintiff's Complaint to correct scrivener's errors in paragraphs 92 and 120. In support of this Motion, Superior states the following:

1. On September 19, 2023, Superior filed its Answer to the Plaintiff's Complaint. Due to an inadvertent scrivener's error, paragraphs 92 and 120 of the Answer incorrectly state "admitted" instead of "denied."

2. The correct response in paragraphs 92 and 120 should indicate that Superior **denies** that it receives federal funds. However, due to a scrivener's error, the current Answer incorrectly states that Superior "admits" to this assertion.

3. The correction of these scrivener's errors will not prejudice the Plaintiff, as it does not introduce any new claims or defenses. It merely corrects the record to reflect the intended and accurate response.

4. In fact, throughout this litigation, the Plaintiff has been aware that Superior denies receiving federal funding. This is evident from the correspondence exchanged between Plaintiff's counsel and Defendant's counsel, as well as from Superior's discovery responses, all of which consistently asserted this denial. *See* correspondence attached as Exhibit "A" and discovery responses attached as Exhibit "B".

5. This scrivener's error in its Answer was not brought to the attention of Defendant's counsel until September 5, 2024, and it does not introduce any new claims or defenses.

6. Rule 15 of the Federal Rules of Civil Procedure provides that leave to amend a pleading "shall be freely given when justice so requires." Fed. R. Civ. P. 15(a). It is widely accepted that "[d]istrict courts have broad discretion to grant or deny leave to amend." *Forbus v. Sears Roebuck & Co.*, 30 F.3d 1402, 1405 (11th Cir. 1994). The Eleventh Circuit has held, however, that this liberal

policy of allowing amendments under Rule 15(a) “circumscribes the exercise of the district court's discretion; thus, unless a substantial reason exists to deny leave to amend, the discretion of the district court is not broad enough to permit denial.” *Shipner v. Eastern Air Lines, Inc.*, 868 F.2d 401, 407 (11th Cir. 1989); *U.S. Fire Ins., Co. v. Freedom Village of Sun City Center, Ltd.*, 2006 WL 4863065, *1 (M.D. Fla. Jan. 30, 2006) (same). In determining whether a substantial reason exists to deny leave to amend, the Court should consider whether: “(1) the amendment would be prejudicial to the opposing party; (2) there has been bad faith or undue delay on the part of the moving party; or (3) the amendment would be futile.” *Williams v. R.W. Cannon, Inc.*, 2008 WL 2229538, at *2 (S.D. Fla. May 28, 2008).

7. There is no valid reason to deny Superior leave to amend its Answer. This motion is Superior’s first request to amend its Answer in this action. Moreover, this motion is made in good faith and not for the purpose of delay. The Defendant promptly seeks to correct this error upon discovery, and the amendment would not prejudice the opposing party for the reasons stated herein.

8. Superior’s proposed Amended Answer is attached as Exhibit “C,” and the proposed order granting this motion is attached as Exhibit “D.”

9. Pursuant to Local Rule 7.1(a)(3), the undersigned has contacted counsel for Plaintiff in a good faith effort to resolve the issues raised in the motion. None of the issues raised in the Motion have been resolved by agreement by today's date.

WHEREFORE, Defendant, Superior Charter School Services, Inc. respectfully requests that this Court grant leave to file an Amended Answer correcting the scrivener's errors in paragraphs 92 and 120, and for such other and further relief as the Court deems just and proper.

Dated: September 11, 2024

Respectfully Submitted,

/s/ Julie C. Marhefka

Scott P. Yount, FBN: 0021352

Julie C. Marhefka, FBN: 1025567

Garrison, Yount, Forte & Mulcahy, L.L.C.

601 Bayshore Blvd., Suite 800

Tampa, Florida 33606

Phone: 813-275-0404

Fax: 813-275-0304

Email: syount@garrisonyount.com

Email: jmarhefka@garrisonyount.com

*Counsel for Superior Charter School
Services, Inc.*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 11, 2024, a true and correct copy of the foregoing was electronically filed with the Clerk of Court via the CM/ECF which will serve the parties by email on the service list below.

Kyle T. MacDonald, Esq.
FBN: 1038749
Derek Smith Law Group, PLLC
701 Brickell Ave, Suite 1310
Miami, FL 33131
Tel: (305) 946-1884
Fax: (305) 503-6741
Kyle@dereksmithlaw.com
Counsel for Plaintiff

Julie B. Karron, Esq.,
FBN: 1025196
Kelly Kronenberg
10360 West State Road 84
Fort Lauderdale, Florida 33324
Phone: 954-370-9970
Fax: 954-382-1988
Email: jkarron@kellykronenberg.com
Counsel for Academir Charter Schools, Inc.